

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

THEREASA MOEN,

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner of
Social Security Administration,

Defendant.

CASE NO. C09-5729BHS

REPORT AND
RECOMMENDATION

Noted for October 22, 2010

This matter has been referred to Magistrate Judge J. Richard Creatura pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Magistrates Rule MJR 4(a)(4) and as authorized by Mathews v. Weber, 423 U.S. 261 (1976). Plaintiff brought this action pursuant to 42 U.S.C. § 405(g) seeking judicial review of a final decision of the Commissioner of Social Security denying an application for social security benefits.

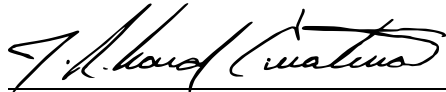
This matter is before the court on the parties' stipulated motion to remand the matter to the administration for further consideration. Doc. 26. The motion states that the parties stipulate

1 that the case be reversed and remanded for a de novo hearing pursuant to sentence four of 42 U.S.C.
2 §405(g).

3 On remand, the administrative law judge (ALJ) should re-evaluate the medical evidence as a
4 whole. After re-evaluation, the ALJ should reconsider plaintiff's maximum residual functional
5 capacity, conduct a hearing, and obtain testimony from a vocational expert to clarify the effects of
6 plaintiff's work restrictions on her ability to perform work in the national economy. Plaintiff should
7 also be given the opportunity to submit additional evidence and testimony. Plaintiff has filed a
8 subsequent application that was approved for disability with an onset date of December 1, 2008. On
9 remand, this finding should not be disturbed and the period at issue should be the period prior to
10 December 1, 2008. Reasonable attorney fees should be awarded, upon proper application, pursuant
11 to the Equal Access to Justice Act, 28 U.S.C. § 2412.
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13 Based on the parties' agreement, the Court should remand the matter to the administrative
14 for further consideration as noted above. Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of
15 the Federal rules of Civil Procedure, the parties shall have fourteen (14) days from service of this
16 Report to file written objections. See also Fed. R. Civ. P. 6. Failure to file objections will result
17 in a waiver of those objections for purposes of appeal. Thomas v. Arn, 474 U.S. 140 (1985).
18 Accommodating the time limit imposed by Rule 72(b), the clerk is directed to set the matter for
19 consideration on **October 22, 2010**, as noted in the caption.
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21 DATED at this 29th day of September, 2010.
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24 J. Richard Creatura
25 United States Magistrate Judge
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